

§ 2-116. Records.

(A) Records Checked Out. Transcripts and bills of exceptions may be checked out by counsel for not more than 14 days. Counsel shall pay postage for records mailed to their offices. Counsel may obtain an extension of time for keeping the record in a case by sending a letter to the Supreme Court Clerk, setting forth the case number, caption of the case, and a request to keep the record for an additional 14 days. Counsel failing to return records when requested by the Supreme Court Clerk may be penalized by appropriate sanctions, including suspension of the privilege to check out records from the Clerk's office.

Any litigant is entitled to inspect the original transcript and bill of exceptions in his or her case at the office of the clerk of the trial court. Transcripts and bills of exceptions shall not be checked out to litigants. Any nonincarcerated litigant is entitled to obtain a copy of his or her transcript or bill of exceptions by filing a written request with the clerk of the trial court. A copy of the transcript shall be prepared by the clerk of the trial court and a copy of the bill of exceptions shall be prepared by the court reporter at the litigant's cost unless the litigant has been allowed to proceed in forma pauperis in the action in which the request for a record has been made. Except for good cause shown, any additional copies of the transcript and/or the bill of exceptions once provided to a litigant on an in forma pauperis basis shall be prepared at the litigant's cost.

When a request is made to the clerk of the trial court for a transcript of pleadings by or on behalf of any incarcerated person, the clerk of the trial court shall prepare two copies, one to be filed in the court to which the matter is being appealed and one to be sent to the incarcerated person at the correctional center where he or she resides. The cost shall be paid by the person making the request unless the person has been allowed to proceed in forma pauperis in the action in which the request for a record has been made. Except for good cause shown, any additional copies of the transcript once provided to a litigant on an in forma pauperis basis shall be prepared at the litigant's cost.

When a request is made by or on behalf of any incarcerated person for a bill of exceptions, the court reporter shall prepare the original to be filed with the clerk of the trial court. The court reporter shall also prepare a duplicate copy at the statutory rate for copies and send it to the incarcerated person at the correctional center where he or she resides. The copy shall contain the index of exhibits but shall not include exhibits. The cost shall be paid by the person making the request unless that person has been allowed to proceed in forma pauperis in the action in which the request for a record has been made. Except for good cause shown, any additional copies of the bill of exceptions once provided to a litigant on an in forma pauperis basis shall be prepared at the litigant's cost. An incarcerated person may request copies of exhibits by filing a motion with the court having jurisdiction of the case.

(B)(1) Presentence Report. In all cases where a presentence report may be material on appeal, the defendant, his or her counsel, or counsel for the State may request the presentence report to be transmitted to the Supreme Court Clerk. The presentence report to be transmitted shall include the report prepared by probation, all materials submitted to the sentencing judge at or before sentencing, and any materials ordered by the sentencing judge to be included in the report at or before sentencing. In each instance, the trial court clerk shall notify probation with the appropriate trial court case number and appellate court case number.

Probation shall then transmit the presentence report to the Supreme Court Clerk. Each page shall be consecutively numbered, with the number at the bottom of the page. The defendant, his or her counsel, or counsel for the State may examine the report at a computer terminal located in and provided by the office of the Clerk.

(2) Neb. Rev. Stat. § 27-1301 Child Pornography Exhibits. In all cases where exhibits constituting visual depiction of sexually explicit conduct involving a child, as defined by § 27-1301, may be material on appeal, such evidence shall be handled on appeal and controlled by the provisions of Neb. Ct. R. § 6-1801.

(C) Return of Records to District Court. The bill of exceptions, presentence report, and § 27-1301 child pornography evidence shall be returned to the clerk of the district court after the issuance of the mandate in a case. The Supreme Court Clerk may retain records in certain criminal homicide cases to facilitate microfilming of the records.

(D) Records as Exhibits. Original Supreme Court records shall not be introduced as exhibits in any proceeding.

(E) Microfilm Records. Certain records which this court is keeping pursuant to Neb. Rev. Stat. § 29-2521.02 et seq. have been photographed on microfilm. These records may be checked out by Nebraska District Court judges. These records shall not be introduced as evidence.

Rule 16(E) amended May 28, 1992; Rule 16(A) amended September 27, 2000; Rule 16(A) and (B) amended May 21, 2003. Renumbered and codified as § 2-116, effective July 18, 2008; § 2-116(B)(1)-(2) and (C) amended January 27, 2010; § 2-116(B)(1) amended June 6, 2012; § 2-116(B)(1) amended September 19, 2013.
